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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,850	08/09/2006	Uwe Berger	20794/0205078-US0	7034
7278 7590 05/29/2009 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER				
JENNISON, BRIAN W				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
05/29/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,850

Applicant(s)

BERGER ET AL.

Examiner

BRIAN JENNISON

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments, see Page 7 and 8, filed 3/23/2009, with respect to drawing and claim objections have been fully considered and are persuasive. The objections of the drawings and claim 10 have been withdrawn.
2. Applicant's arguments filed 3/23/2009 on pages 8-11 in regards to claims 6-12 have been fully considered but they are not persuasive. See comments below.

Claims 6, 7 and 9-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by Walkoe (US 2,907,859). See previous office action

In regards to the applicant's assertion on page 8 in regards to claims 6 and 7 that the door is not returned to the close position when a physical quantity falls below a predetermined threshold value stored in memory:

The desired temperature is set, thus stored in a memory device. **See Column 7, Lines 50-52.** When the temperature rises a bimetal strip closes against a contact closing a circuit and to initiate opening of the door. **See Column 8, Lines 1-30.** Since the bimetal strip responds to temperature it will open the circuit when the temperature falls below to desired temperature thus automatically returning the ram to its retracted position as shown in Fig 2 and closing the door. **See Column 7, Lines 20-40.** All circuitry and temperature knob is considered a control system.

In regards to applicant's arguments, on page 9, in regards that the door is not closed when a physical quantity falls below a predetermined threshold value:

The desired temperature is set thus defining a predetermined threshold value. A meat probe 10 monitors the temperature and through circuitry causes a bimetal strip to close or open a circuit causing the door to open or close automatically. The door is not only capable of closing automatically, it is described in the prior art. **See Column 7, Line 45-Column 8, Line 30.**

3. Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Walkoe in view of Berger et al (US 2003/0010221). See previous office action.

4. In response to applicant's arguments on page 10 against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant acknowledges the fact that Berger teaches a steam cooking apparatus.

Applicant argues "Berger does not teach or suggest a cooking appliance control system configured.., to actuate the positioning motor so as to automatically return the door to the closed position when a physical quantity falls below a predetermined threshold

value stored in the memory," as recited in claim 7. Berger does not teach or suggest that the door of the steam cooking apparatus or any elements in connection with the door includes any of the recited features.

Berger is not relied upon for these limitations in claim 7.

Berger et al teaches:

Regarding Claim 8: a steam cooking apparatus (See Paragraph [0002], Line 1)

In view of Berger et al's teachings it would have been obvious to one of ordinary skill in the art at the time of the invention to include with the teachings of Walkoe, the cooking appliance as a steam cooking appliance since, Berger et al teaches a steam cooking apparatus for energy savings and a uniform temperature distribution in the entire cooking chamber.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN JENNISON whose telephone number is (571)270-5930. The examiner can normally be reached on M-Th 7:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN JENNISON/
Examiner, Art Unit 3742
5/21/2009

/TU B HOANG/

Supervisory Patent Examiner, Art Unit 3742